p12

1935.

Department of Land Settlement

OFFICE Office of the Board of Review

STATION Chepauk R

Mis No. 2221	B129 4/35
Dated 13-6-35	

Pages in the file 2

(SUBJECT.)

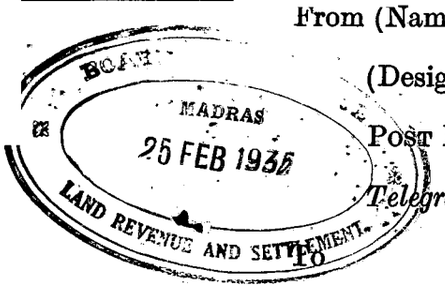
Assignment - Land - Depressed Classes
Special Conditions Violation - Lands
Inherited by minors - Resumption -
Orders passed.

C.F. 32.

DEPARTMENT

In reply, please quote number, date and short title

Received *Registered*



From (Name) T.Bhaskara Rao Esq., I.C.S. 2612 H90/

(Designation) Collector,

Post Box (Station) Bellary.

Telegraphic Address

To

The Secretary to the Commissioner
Land Revenue and Settlement Madras

Sir

Ref.C. *No.* 372/35, *dated* 21st Feb. *1935*

Enclosures

Land - Granted to Depressed classes men under special conditions resumption in case of a minor procedure orders - Requested.

Spare Copies

S.No. 6 of Gonahal village, Hospet Taluk was originally assigned to a Depressed class member under B.S.O. No.15-38 On the death of the assignee the registary was changed in the name of his minor son. The land stands mortgaged to state loan, and there are land revenue arrears also on it. For a portion of the loan arrears accrued after the minor succeeded to the property, the land was sold but the sale was not approved. The minor is unable to pay even the land revenue. For default of payment of Land Revenue, the land has to be resumed under B.S.O. 15-38 (f) The question is whether the land of a minor should be resumed in such cases The Sub Collector Mr.R.Galletti was of opinion that resumption should not be resorted to as the equitable principle on which the provision of Regulation X of 1831 is based, is violated as much by resumption as by sale. His successor Mr. Khaleeli however is of opinion that the land should be resumed so that the minor may once for all, be freed from the everlasting liability to Government. He states further that what the minor innerits in such cases is a hereditary liability and not an asset. I think that Mr.Khaleeli's view is correct. I however solicit the orders of the Board in the matter.

3

B.(2)(4) Assignment- Land-
Depressed classes- Special
Conditions Violation- Lands
inherited by minors - Resumption

p14 B.1294/35-8

Refer B.1294/35-1. & 16.5.35

Lands assigned to members of
the depressed classes under
B.S.O. No 15-(35) are made
subject to the condition
among others that if
default is made in the
payment of such revenue on
the dates prescribed, the
grants will be liable to
be resumed by Govt & will
be entitled to re-enter
and take possession of
the land without payment
of any compensation or
refund of purchase money.
The order of assignment
in the Special Form D'
printed in Correction Slip No
55 of 7-9-34 at page

pp 56-57 Vol I

Issued 6/5

RG/KPS
21/5

181-182 of Vol I of the B.S.O. is issued in such cases.

2/ Madras Regulation X of 1831 at ~~pg 69 of the Madras Code Vol I~~ lands ~~inherited by~~ descended to minors by the Collector in Council should not be sold for arrears of land revenue under Act II of 1864 (Madras). A question has now arisen whether a plot of land assigned to a member of the depressed classes subject to the conditions mentioned in para 1 above and inherited by his minor son can be resumed under the condition of the grant, for default in the payment of land revenue. It has been brought to the Board that inasmuch as Regulation X of 1831 prohibits only the sale of lands inherited by minors for the recovery of arrears of revenue, there is no objection to the resumption of the grant under the conditions attached to it. The Govt. Solicitor Madras is requested

3 5

have no good as to state whether Regulation IX of 1831 is not an absolute bar ~~against~~ to resumption

RN 13/5/35

16/5/35

16/5/35

DESPATCHED
21 MAY 1935
ZM

Forward to D.C. Jhs 17/5/35

7

B 2880

From H. M. Small Esq., M.A., LL.B.,
Government Solicitor,
Madras.

To The Secretary,
To the Commissioner of Land Revenue & Settlement,
Chepauk, Madras.

No. F636 24th May 1935.

Sir,

Assignment - Land - Depressed Classes - Special conditions - Violation - Lands inherited by minors Resumption

I have carefully perused and considered the provisions of Section 2 of Regulation X of 1831 and do not think that the same will operate as a bar to the resumption of the land in the possession of a minor under the circumstances mentioned in the reference. It appears to me that Section 2 was enacted for the specific purpose of protecting the property of minors and other incapacitated persons from being sold for arrears of revenue and in my opinion there is no warrant for extending the provisions of such section to other cases where the property of a minor has for some reason or other become subject to a liability. It appears to me that the said Section must be strictly construed and its application confined only to cases falling within the four corners of the same

I have the honour to be,
Sir,
Your obedient servant,

H. M. Small

CG/MRV

Government Solicitor.

C.F. 32-(a).

Revenue DEPARTMENT.

reply, number, date and short title. *

Received *Registered* B 29842

From (Name) T. Bhaskara Rao Esq I.C.S.

(Designation) Collector of Bellary.

Post Box (Station)

Telegraphic Address

BOARD OF REVENUE MADRAS 31 MAY 1935 LAND REVENUE AND SETTLEMENT

To The Secretary to the Commissioner,
Land Revenue and Settlement
M a d r a s.

Ref. B 1294/35-2 dated 7.6.35

Ref.C. *No.* 372/35., *dated* 26-5-35. 19

Sir,

Land granted on special conditions- resumption in case of a minor.

ENCLOSURES

Ref:- This office Ref. C.No. 372/35 dated 21-2-35.

I invite the attention of the Board to the above reference and request that orders if passed in the matter may be communicated to me.

SPARE COPIES

DESPATCHED 10 JUN 1935

For Collector.

Bellary 29.5.35

When received for fair copying ..		
When copied ..		
When examined..	15/6	ASM VMGS
When signed		
When despatched.		

SUBJECT:— Assignment - Land - Depressed classes - Special condition - Violation - Lands inherited by minors - Resumption - Orders passed

READ AGAIN _____, dated _____ 19____

,, ,, _____ ,, _____ 19____

READ ~~ALSO~~:-

p 14 No. B1294/35 From the _____, No. _____, dated _____ 19____

,, _____ ,, _____ ,, _____ ,, _____ 19____

,, _____ ,, _____ ,, _____ ,, _____ 19____

Order / Resolution ~~Ms. / Rout.~~ No 2221, dated _____ 13.6.1935

In the circumstances reported by him, the Collector is informed that S.R.O 6 of General Village Hospet Taluk can be resumed under B.S.O No 15-38(f) for defaults in the payment of land revenue.

13/6

MR 56-57 Vol CT

MR/ 12/6/35 12/6/35

Home Secy/Secretary

Not to file

M/S/As
Secretary
Thro' ~~A.C.F~~
Sichin
dg 5/3/35
6.3.35
WP 7.3.35
p/f

Assignment Land Depressed Classes Special conditions Violation = Resumption.

B 129 4/35

BP 1099 mins d 8/4/33 (P)

Please see the letter from the Collector of Bellary at p/f The question raised is whether the land of a ~~minor~~ member of the depressed classes who is a minor can be resumed for default in payment of land revenue ~~even after the fact~~ in view of the provision in Regulation X of 1831 that lands inherited by minors shall not be sold for arrears of revenue has been held at p 6 n/f of (P) that the above protection does not apply to lands assigned to minors. As two sub Colrs messrs R. Galletti and Khaleli have expressed opposite opinions on the question of resumption the Colr of Bellary refers Board's orders in the matter Mr Galletti's opinion is that resumption should not be resorted to as an equitable principle on which the provisions of Regulation X of 1831 is based is restricted as much by reasons

as by sale His successor Mr. Khaleeli's view is that the land should be resumed so that the minor may once for all be freed from an everlasting liability to rent & that what the minor inherits in such cases - a hereditary liability & not an asset The Collr agrees with the latter's view

2/ Attention is invited to B.S.O.No 15-38(f) and conditions (8), (9) & (10) of the Special Form D - order of assignment - applicable to grants of land to the depressed classes Violation of any of the above 3 conditions including default in payment of land revenue entails resumption of the grant The object of resumption for non payment of land revenue seems to be to secure the land for other members of the depressed classes, as otherwise the land is liable to sale for arrears Land revenue would fall into the hands of non depressed class members Further B.S.O.No 15- does not make any distinction between a major & minor but the above circum

there seems to be no objection to resume the land in such cases. Forwarded

5.3.35
SB/35

11.3.35
A-S (d-N)

6. Why did Govt not attach and lease the land for the arrear to enhance the liability and prevent the land for the same?

Aw
13.3

6 A section for answering

Ab (dh dept)
2200 Pb section
PM
MB
9.3.1935
Sec 2

To Ab (dh2)

Please see the Secy's query above

2. Attachment and management by Govt under Act II of 1864 is a measure with a view to secure the benefit of lands assigned to members of the depressed classes to such assignees or members of such classes in Govt have by an executive order directed that such lands should not be processed against under Act II of 1864 but resumed and reassigned to members of the depressed classes. Further the amount of land assigned may not be considerable and leasing out may not be a profitable concern. Consideration of such assignments is

b 350 J
11.C.Vol I

that the land is liable to be resumed if the land ~~was~~ is alienated by way of sale, gift mortgage, or lease in perpetuity or ceases to be owned by the pattadar or his legal heirs owing to sale by process of law or otherwise. On leasing here is the risk of this condition being violated & the Govt will have to go in for dispossessed class lessees alone in the course this leasing may not be always possible to secure such lessees in open sales. In the circumstances it is submitted that leasing is not permissible ⊗ and not workable

For orders.

15.3.35

18.3.35

20.3.35

20.3.35

⊗ Please see the last Para of the Ad. General's opinion at P.11 of Proc. No 2160 mis 26.7.1929.

DAS

Please see the Secy's query at p.4 N.7

2 It is not clear whether Secy refers to lands inherited (a) prior to the minor's father and now inherited by the minor after the father's death

In the case of (a) being an ancestral land – not land descended to him in the regular course of inheritance – it may be sold under Act II of 1864 – vide discussions at pp 5-6 N.7 of (1)

In the case of (b) – as in the (a) case – it is covered by the protection in Reg X of 1831 and cannot be sold under Act II of 1864

p.1 of p 69 of Madras Code vol I & § 63 of Act II of 1864

p.358 of Madras Code vol I

dg 283 35=

28.3.35

For orders

28335

S

I do not see why the minor should receive less protection from the Reg X of 1831 than the minor son of a ryot to whom land has been assigned under ordinary circumstances.

The only thing to do is to

write off the loan and to write off the L.R. year after year till the minor comes of age

AW
24.3.35

N3 My Instr. forego there does although there no provision under which recovery may be postponed until the minor comes of age

J
30.3.35

Will loans such please note
The difficulty I suppose is that unless meant the amt will be so large by the time the minor comes of age that he will find it difficult to pay

(Mr. S)

S
A.S. (Draft)
Mr. A

To asst Secy.

Please see Comms
+Secy's orders
~~Circular~~. / on p. 6 ante

Re payment of loan

Vide Rule XXV of p. 5 of Loan Manual

ments may be ~~postponed~~ suspended when
from causes beyond the borrowers
control such repayment be
unduly burdensome Such post-
ment is granted only for one
at a time There is no provision
under which the recovery of
instalments may be postpone
a minor comes of age.

Attention is in this connec-
ted to para 8 of chap 5
Executive Instns on page 89 the Loans Code
under which loans which
devolved upon the minor
right of inheritance can be
attached and managed under
Sec. 28 of the Rev. Recovery Act for
the recovery of the arrears, pro
the minor will not attain majo
shortly and provides also there is
no other method of recovering the
arrears A minors moveable
property may be attached & sold
the realization of the arrears

It is not known whether the minor in the present case owned any moveables. Presumably the share none being a deprived class member unable to pay even the land revenue ~~dues~~ dues.
There is also no information ~~as to whether~~ when the minor will attain majority ~~shortly~~ and whether it is worth while keeping the property ~~superintended for the loan~~ under Court management till then if it is to take very long. ~~if he will not attain majority shortly is~~ whether it will ~~be worth anything at all~~ pay for the cost. Perhaps a reference may be made to the Collector on these points. For orders.

6.4.35 The experience may be there: but I have no doubt myself as to what the answer will be

The executive instructions in the Talukdari manual referred to at p. 7 N. 7 have no force of law. Further, the Advocate General's opinion at pp 9-11 of (I) does not appear to have been taken into consideration when that instruction was drafted in the manual. Perhaps the whole question may be reviewed & based on the B.P. act (E) when the proposed reply is issued.

For orders

5/4/35

5.4.35

Submitted please see
A.S (A.M.)
J.S
S
11.4.

9

I see no reason why the loan should not be postponed from year to year until the minor becomes a major He will then be able to pay off the instalments The L.R. agrees — to write off.

AW
15-4.

JS. If

M3 M1 I/- is a difficult for the minor's guardian to pay Even the land revenue on the land it is obvious that the land is not worth the minor keeping It is extremely doubtful Whether the minor ought to become major, will thank Govt for keeping the land charge as regards the loan alone The minor belongs to the depressed classes & has presumably no other

property (& this may be
required by necessity)
it is more likely that
he will appreciate being
relieved of the land
(and simultaneously of
both the loss of land
revenue liabilities) than
the land (which is
presumably of small
value) being saved up
for him (together with
the liability as regards
the loss of future
land tax revenue
(& arrears up to
date) and liabilities
of). I shd in the
circumstances accept
the Collr. proposal
in favour of resumption

HH

20/6

I should like to agree with MS but I doubt whether Reg. X q 31 is such an absolute bar to resumption... In the circumstances of the case it seems likely that the assignee would be willing through her guardian to ~~[illegible]~~ give up the loans. If he did would they get over the legal bar of Reg 15 I take it that in any circumstances we are not going to recover either the loan and or the arrears of L & R

12

Draft submitted

RM 13/5/35 — AO 13/5/35

R 16/5/35

AS (Sen)

As (Com)
This A & Section
Feb 15.5.
14/5 15/5
MB 15/5

M 2.1.1 / 35/5/1 As (Com) This A & E Section
Feb 29.5.35
MB 29/5

Issued as B dis reports 1294/35-1 & 1655 35 — Mp 3-5 ℄
Reply from the Govt Solicitor Madras. B2880/35 — M 7 ℄
Please see the Board's reference at Mp 3-5 ℄ and the reply from the Govt Solicitor Madras at M 7 ℄ Order
are solicited whether in view of the views
Govt Solicitor's opinion the letter M 7 ℄
of Bellam may be informed that the
land referred to at p 1 ℄ can be ie 31-5-35
resumed under B. S. O. No 15-38(f) — Mp. 56-57 Vol I

RM 29.5.35 — AO 29/5/35

R 31/5/35

M3

Ed 6/6

M 2 RM

96

SECY. 11 JUN 35

AS (2/IV) Draft submitted

12685

12685

12/6/35